

REMARKS

I. The Status of All Claims

Claims 1-33 are pending.

Claims 32 and 33 are added.

Claims 1, 8, 15, 17, 20, 22, 28, and 33 are the independent claims.

II. Remarks in Response to Rejections of Claims over Rebane

A. Summary Relating to Rebane

The December 2, 2003 office action rejected claims 1-31 under 35 USC 103 based upon Rebane. Rebane is directed to trend analysis. Trend analysis requires agglomeration of data. Agglomeration requires a delay time during which data is received from various recipients until a sufficient amount of data has been received to perform trend analysis.

B. Rebane Does Not Disclose Communicating an Individual Person's Response to an Employee of a Merchant; Rebane Does Not Disclose Communicating an Individual Person's Response to Anyone Immediately upon Receipt of That Response

The background section of Rebane states in pertinent part that:

In view of the disadvantages in traditional survey methodology, a few years ago the assignee of the present invention developed and implemented a novel system for providing timely and accurate reporting of information relating to the sales, marketing, consumer satisfaction, and other commercial activities of participating businesses. In the system, online buyers are non-intrusively invited to fill out a survey questionnaire immediately after completing a purchase at a participating merchant. The invitation is in the form of a banner on the order confirmation receipt from a participating merchant's website. If the buyer has clicked on the banner to accept the survey questionnaire, the buyer is hyper-linked to a questionnaire from a survey system server. The buyer completes the survey questionnaire and the survey data are electronically returned to a data

processing system for processing and evaluating survey results. The same system can electronically report the processed results from a sample of survey questionnaires directly to participating or subscribing merchants.

Thus, the system of the assignee overcomes disadvantages in the art by providing a system that electronically gathers data and transmits it directly into the data processing system. Among the advantages of this system, it eliminates the need for manual entry of data on paper forms; the use of individuals to take and input survey data gathered from consumers; the delays that occur between data collection and input, and data input and processing; and the costs associated with such methodologies. While this system has begun to address many disadvantages of traditional modes of surveying, processing, and evaluating survey data, the dynamics of the e-commerce marketplace demand faster and more accurate data gathering, processing, evaluation and reporting of data and information.

The rate at which reports can be issued depends on how fast survey responses are returned and on the minimum sample size required. It is fundamental in statistical sciences that, when conventional modes of statistical analysis are employed, an inadequately small sample or a noisy sample will lead to inaccurate results. However, business and marketplace conditions may be changing faster than adequate sample sizes can be gathered for accurate results using conventional modes of statistical analysis and estimation theory. Such conventional modes include "moving window averages" (weighted and unweighted). Accordingly, businesses may be at risk if certain trends relating to the business or marketplace take shape before data is collected in sample sizes suitable for traditional modes of statistical analysis and estimation.

In view of the foregoing, there is a strong need for novel data processing systems that can discern trends and otherwise provide results based on limited or noisy data samples. Further in view of the foregoing, there is a substantial need for data gathering, processing and evaluation systems that quickly alert businesses to incipient trends in their business activities and marketplace so that appropriate

action may be taken to protect and advance a business's well-being. There is also a need for systems that allow a business to predict growth rates and limits of variables relating to the business or marketplace.

Thus, Rebane is directed to "discern[ing] trends [based upon survey responses] and otherwise provid[ing] results based on limited or noisy data samples" and "electronically report[ing] the processed results from a sample of survey questionnaires directly to participating or subscribing merchants." Trends based upon processed results requires a plurality of data points as a function of time. Thus, Rebane is clearly directed to trend analysis based upon multiple data received at various times.

Moreover, the first paragraph in the "Background of the Invention" section in Rebane defines its focus on reports synthesized from peoples' responses to surveys, stating that:

The present invention relates to a system and method for data collection, evaluation, information generation, and presentation. More particularly the present invention relates to a system for collecting, evaluating, and presenting data, and generating information relating to electronic commerce. The system and methods of the present invention include one or more of the following: a module for *stabilizing small or noisy samples of data*; alarm modules that alert an event handler when data values cross specified thresholds; *predictor modules that use recent historical data along with an estimated and/or available saturation population function as the basis for a differential equation that defines the growth of the population to a maximum attainable level*; and a dynamic icon that conveys to users of a system *levels of predefined activity occurring on the system*.

[Emphasis supplied.]

Rebane reinforces the reliance on synthesized information when referring to survey results in paragraphs 8 to 23 in the "Background of the Invention" section. In the "Summary of the Invention" section, Rebane repeatedly refers to "arriv[ing] at forecasted population value for a given time" based upon a "saturation limited forecasting ("SLF") module for forecasting the value of a population for a given time" employing one or more disclosed equations.

Rebane does not disclose communicating *an individual person's response to survey questions* to an employee of an employer.

Rebane does not disclose communicating an individual person's response to survey questions to anyone *immediately upon receipt of that response*.

C. Rebane Does Not Disclose "transmitting a second electronic notification message to a second employee if said customer satisfaction rating is below a threshold value"

The examiner asserted in the office action dated 12/2/2003 in relation to claims 5, 12, and 13 (office action page 4 lines 10-14) that Rebane discloses "transmitting a second electronic notification message to a second employee if said customer satisfaction rating is below a threshold value." The examiner relied upon Rebane column 6 lines 4-8 for that conclusion. Column 6 lines 4-8 in Rebane do not disclose that concept. All that Rebane column 6 lines 4-8 state is that "The one or more data sources include consumer and/or merchant computer systems, and the presentation server is capable of communicating with one or more merchant computer systems...." Nothing there relates to contingent transmission of a message based upon the same data to an additional recipient. Nothing there suggests contingent transmission of a message based upon the same data to an additional recipient employee employed by the same entity as the person to whom the first message was sent.

The examiner relies upon the same rationale regarding transmission of a third message to a third employee. See office action page 4 lines 18-20. For the same reasons just claims 5, 12, and 13, Rebane does not disclose transmitting the claimed third message.

D. (1) Rebane does not disclose "creating an audio file containing said feedback message" from an individual consumer; (2) Rebane does not disclose "creating an audio file containing said feedback message" that contains feedback from a single user; and (3) Rebane does not disclose that the audio file stores recorded voice information from the person generating the feedback message

The examiner alleges that Rebane column 33 lines 16-17 and column 34 lines 8-9 disclose claim 7's step of "creating an audio file containing said feedback message." That is incorrect. Rebane column 33 lines 16-17 discloses generating a *dynamic icon* in the form of a

flashing dot. Rebane column 34 lines 8-9 indicates that the *dynamic icon* can be "an audio-based icon that verbally or connotatively describes some level of activity." Moreover, Rebane does not disclose that the audio file stores recorded voice information from the person generating the feedback message.

E. Distinguishing Claims 1-33 from Rebane

Rebane does not disclose or suggest transmission of data received from an individual customer. Claims 1-33 define that limitation.

Rebane does not disclose promptly or automatically transmitting data received from an individual customer. Claims 1-7, 15-33 define at least one of those limitations.

Rebane does not disclose sending more than one notification signal depending upon the values of data received from an individual customer. Claims 5, 6, 12- 16, 26, and 27 define that limitation.

Rebane does not disclose creating an audio file recording a customer's message, or sending that audio file to an employee. Claims 7, 8-16, 19, 20-21, 27-32 define at least one of those limitations.

For at least the foregoing reasons, the rejections of claims 1-31 based upon Rebane would be improper as to the new claims and pre-existing claims as now amended.

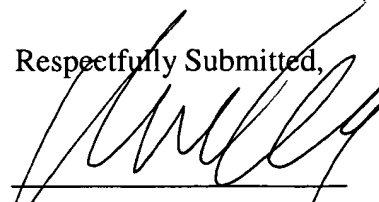
VII. Closure

Should the examiner have any questions, he is urged to contact the undersigned at 703-415-0012.

4/30/04

Date

Respectfully Submitted,



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